

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JENNIFER HARBERS,
for Herself, as a Private Attorney
General, and/or On Behalf Of All
Others Similarly Situated,

Plaintiff,

v.

EDDIE BAUER LLC,
and DOES 1-20, inclusive,

Defendants.

No. 2:19-cv-00968-JLR

**STIPULATED MOTION AND
~~PROPOSED~~ ORDER RESOLVING
DEFENDANT'S MOTION
TO STAY DISCOVERY (DKT. 26)**

NOTE ON MOTION CALENDAR:
MONDAY, SEPTEMBER 23, 2019

STIPULATED MOTION FOR ORDER
RESOLVING DEFENDANT'S
MOTION TO STAY DISCOVERY - 1

HATTIS & LUKACS
400 108th Avenue NE, Suite 500
Bellevue, WA 98004
425.233.8650 | FAX: 425.412.7171
www.hattislaw.com

STIPULATION

WHEREAS, on July 23, 2019, this Court entered a Rule 16(b) And Rule 23(d)(2) Scheduling Order Regarding Class Certification Motion (Dkt. 19) which, among other things, set a deadline for Plaintiff Jennifer Harbers to complete discovery on class certification on or by November 18, 2019, and set a deadline for Plaintiff Harbers to file a motion for class certification on or by December 18, 2019;

WHEREAS, on July 4, 2019, Plaintiff Harbers filed a Motion To Remand this action back to the King County Superior Court (Dkt. 13), a motion which has been fully briefed by the parties and which is pending;

WHEREAS, the Plaintiff's Motion To Remand argues that this federal district court lacks subject matter jurisdiction over Plaintiff's claims because Plaintiff's operative First Amended Complaint does not allege a sufficiently concrete injury-in-fact to confer Article III standing;

WHEREAS, on June 28, 2019, Defendant Eddie Bauer, LLC ("Eddie Bauer") filed its Motion To Dismiss First Amended Complaint for failure to state a claim (Dkt. 11), with further briefing being suspended by stipulated order (Dkt. 15) until after the disposition of Plaintiff's Motion To Remand;

WHEREAS, on September 16, 2019, Eddie Bauer filed and served its Motion To Stay Discovery (Dkt. 26), which asks the Court to stay discovery until the ruling upon Plaintiff's Motion To Remand on the grounds that district courts within the Ninth Circuit have held that a stay of discovery is appropriate while a plaintiff is challenging the Court's jurisdiction (Motion To Stay Discovery, Dkt. 26, pp. 3:5-4:9);

WHEREAS, after a review of the legal authorities cited by Eddie Bauer, Plaintiff Harbers concludes that she does not have an objection to a limited stay of all discovery and that it would not be a good use of judicial resources for this Court to adjudicate Eddie Bauer's Motion To Stay Discovery (Dkt. 26)—provided that Plaintiff's deadlines to complete class certification discovery and to file a motion for class certification are continued for a period of time equal to the period of the discovery stay;

1 NOW, THEREFORE, Plaintiff Jennifer Harbers ("Harbers") and Defendant Eddie
2 Bauer, LLC ("Eddie Bauer") hereby STIPULATE and AGREE as follows:

3 1. All discovery in this civil action should be suspended from the day of the
4 Court's granting of this Stipulated Motion to and through the day of the Court's entry of the
5 later of an order adjudicating Plaintiff's Motion To Remand (Dkt. 13) or an order adjudicating
6 Defendant's Motion To Dismiss (Dkt. 11) (the "Period of Stay"), with this stay of discovery
7 being lifted upon this Court's entry ~~of the later~~ of an order adjudicating Plaintiff's Motion To
8 Remand (Dkt. 13) ~~or an order adjudicating Defendant's Motion To Dismiss (Dkt. 11).~~ *Gene*

9 2. The deadlines of November 18, 2019 (to complete class certification discovery),
10 and December 18, 2019 (to file a motion for class certification), as stated in the Rule 16(b) And
11 Rule 23(d)(2) Scheduling Order Regarding Class Certification Motion (Dkt. 19), should be
12 amended and continued by the number of calendar days in the Period of Stay.

13 3. ~~The Court should vacate the noting date for~~ Eddie Bauer's Motion To Stay
14 Discovery (Dkt. 26) **IS DENIED as moot.** *Gene*

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16 DATE: September 23, 2019

17 Respectfully submitted,
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19 SEED IP Law Group LLP

20 by: /s/ Marc C. Levy
21 Marc C. Levy, WSBA No. 19203
22 Thomas A. Shewmake, WSBA No. 50765
23 701 Fifth Avenue, Suite 5400
24 Seattle, WA 98104
25 Telephone: 206-622-4900
26 Facsimile: 206-682-6031
27 marcl@seedip.com
28 tomshewmake@seedip.com

26 STEPTOE & JOHNSON LLP
27 Stephanie A. Sheridan (admitted *pro hac vice*)
28 Anthony J. Anscombe (admitted *pro hac vice*)
Meegan B. Brooks (admitted *pro hac vice*)

Respectfully submitted,

HATTIS & LUKACS

by: /s/ Daniel M. Hattis
Daniel M. Hattis, WSBA 50428
Paul Karl Lukacs (admitted *pro hac vice*)
Che Corrington, WSBA No. 54241
400 108th Avenue NE, Suite 500
Bellevue, WA 98004
Telephone: 425-233-8628
Facsimile: 425-412-7171
che@hattislaw.com
dan@hattislaw.com
pk1@hattislaw.com

Attorney for
Plaintiff Jennifer Harbers

1 One Market Street
2 Steuart Tower, Suite 1800
3 San Francisco, CA 94105
4 Telephone: 415-365-6700
5 Facsimile: 415-365-6699
6 ssheridan@steptoe.com
7 aanscombe@steptoe.com
8 mbrooks@steptoe.com


9 *Attorneys for*
10 *Defendant Eddie Bauer, LLC*

and the Proposed Class

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13 **ORDER**

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15 IT IS SO ORDERED.

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Dated: ^{October}~~September~~ 1, 2019



HON. JAMES L. ROBART
Judge, U.S. District Court
for the Western District of Washington

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington and the United States of America that on the 23rd day of September, 2019, the document attached hereto was filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record in the matter.

DATED this 23rd day of September, 2019.

/s/ Che Corrington
Che Corrington, WSBA No. 54241